

not less than 6.58%," which statements were false and misleading and deceived and misled the purchaser in that they represented to purchasers that the article was cottonseed meal containing not less than 41 per cent of protein, equivalent to 8 per cent of ammonia, and not less than 6.58 per cent of nitrogen, whereas, in truth and in fact, it was a product containing less than 41 per cent of protein, equivalent to less than 8 per cent of ammonia, and contained less than 6.58 per cent of nitrogen. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, to wit, cottonseed meal.

On December 17, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12037. Misbranding of assorted jellies. U. S. v. 38 Cases of Assorted Jellies. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 17459. I. S. Nos. 11363-v, 11364-v, 11365-v, 11366-v. S. No. C-3014)

On April 16, 1923, the United States attorney for the Western District of Texas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 38 cases of assorted jellies, at El Paso, Tex., alleging that the articles had been shipped by the Blanke-Baer Extract & Preserving Co., from St. Louis, Mo., on or about November 17, 1922, and transported from the State of Missouri into the State of Texas, and charging misbranding in violation of the Food and Drugs Act. The articles were labeled in part: (Jars) "Win-you Brand Pure Apple-Pineapple" (or "Apple-Raspberry" or "Apple" or "Apple-Strawberry") "Jelly * * * Mfd. By Blanke-Baer Extract & Pres. Co. St. Louis."

Misbranding of the articles was alleged in substance in the libel for the reason that the statements on the labels that the said jars contained "Pure Apple-Pineapple Jelly," "Pure Apple-Raspberry Jelly," "Pure Apple Jelly," and "Pure Apple-Strawberry Jelly," as the case might be, were false and misleading and deceived and misled the purchaser for the reason that the jelly therein contained was not pure fruit jelly but contained pectin jelly that had been mixed and packed with and substituted wholly or in part for pure fruit jelly. Misbranding was alleged for the further reason that the articles were in imitation of and were offered for sale under the distinctive names of other articles. It was further alleged in the libel that the articles had been mixed and colored in a manner whereby damage or inferiority was concealed.

On October 2, 1923, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the products be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12038. Misbranding of tomatoes. U. S. v. Ocie V. Barger. Plea of guilty. Fine, \$10 and costs. (F. & D. No. 16945. I. S. No. 3756-v.)

On December 23, 1922, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Ocie V. Barger, Idlewild, Tenn., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about July 15, 1922, from the State of Tennessee into the State of Illinois, of a quantity of tomatoes in crates which were misbranded.

Misbranding of the article was alleged in the information for the reason that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 23, 1923, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$10 and costs.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12039. Misbranding of Fernet De Vecchi. U. S. v. 3 Cases of Fernet De Vecchi. Default decree of condemnation, forfeiture, and destruction. (F. & D. Nos. 17485, 17486. I. S. No. 4133-v. S. No. C-3973.)

On May 1, 1923, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the

seizure and condemnation of 3 cases of Fernet De Vecchi, at Chicago, Ill., alleging that the article had been shipped by the Banfi Co., from New York, N. Y., December 9, 1922, and transported from the State of New York into the State of Illinois, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that the product consisted essentially of alcohol, water, a trace of an iron compound, and extractives from plant drugs, including a laxative drug and small amounts of alkaloids.

Misbranding of the article was alleged in substance in the libel for the reason that the following statements regarding the curative or therapeutic effect of the said article, appearing on the bottle label and in the accompanying circular, (bottle and circular) "digestive * * * antifebrile * * * anticholeraic * * * recommended for people suffering from irritable nerves, lack of appetite, nausea, worms," (circular) "has the property of curing biliousness, giddiness and bad digestion," were false and fraudulent in that the said statements were applied to the said article so as to represent falsely and fraudulently to the purchasers thereof and create in the minds of such purchasers the impression and belief that the article was composed of or contained ingredients or medicinal agents or combinations of ingredients effective as a remedy for the several diseases, ailments, and afflictions mentioned upon the said bottle label and in the said circular.

On January 7, 1924, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12040. Misbranding of flour. U. S. v. 1,800 Sacks of Flour. Order entered providing for release of product under bond to be repacked.
(F. & D. No. 18015. I. S. No. 19307-v. S. No. C-4173.)

On November 13, 1923, the United States attorney for the Western District of Tennessee, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 1,800 sacks of flour, at Memphis, Tenn., alleging that the article had been shipped by the Huegely Milling Co., Nashville, Ill., on or about October 27, 1923, and transported from the State of Illinois into the State of Tennessee, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Sack) "24 Lbs. Huegely Milling Co. * * * White Rabbit Highest Patent Flour Nashville, Illinois. Bleached."

Misbranding of the article was alleged in the libel for the reason that the statement appearing in the labeling, "24 Lbs.," was false and misleading and deceived and misled the purchaser, and for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 27, 1923, the Huegely Milling Co., Nashville, Ill., having appeared as claimant for the property and having admitted the allegations in the libel, an order of the court was entered providing that the product be released to the said claimant upon the execution of a bond in the sum of \$1,000, in conformity with section 10 of the act, conditioned that it be repacked so that the sacks would contain the amount indicated thereon, and it was further ordered that the claimant pay the costs of the proceedings.

C. F. MARVIN, *Acting Secretary of Agriculture.*

12041. Adulteration of canned tomatoes. U. S. v. 340 Cases of Canned Tomatoes. Default decree of condemnation, forfeiture, and destruction.
(F. & D. No. 17877. I. S. No. 1080-v. S. No. E-4511.)

On October 29, 1923, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the seizure and condemnation of 340 cases of canned tomatoes, at Baltimore, Md., alleging that the article had been shipped by the United Canneries Corp., from Newark, Del., on or about September 21, 1923, and transported from the State of Delaware into the State of Maryland, and charging adulteration in violation of the Food and Drugs Act.

Adulteration of the article was alleged in the libel for the reason that it consisted in whole or in part of a decomposed vegetable substance.